

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 4013 OF 2005

IN

APPEAL NO.1134 OF 2005

IN

SUMMONS FOR JUDGMENT NO. 879 OF 2004

IN

SUMMARY SUIT NO. 3049 OF 2004

Janta Glass Works and others

.. Appellants

Versus

The Mahalakshmi Glass Works Pvt. Ltd.

.. Respondents.

Mr. M.P.S. Rao with Mr. Tushar Bhavsar, instructed by M/s. Crawford Bayley & Co., for the appellants in support.

Mr. D.H. Mehta with Ms. Savita D'Lima, instructed by M/s. Raval Shah & Co., for the respondents to show cause.

**CORAM: R.M. LODHA &
ANOOP V. MOHTA, JJ.**

DATE: JANUARY 24, 2006.

P.C.

We heard Mr. M.P.S. Rao, the learned counsel for the appellants and Mr. D.H.Mehta, the learned counsel for the respondents.

2. Though appeal has been admitted, having considered the entire facts, we are of the view that the appellants are entitled to conditional stay only. From the material on record, there does not seem to be much dispute

that goods worth Rs. 6,66,22,832.75 were supplied by the respondents to the appellants through their customers during the period 18th March, 2001 to 28th March, 2004. Towards the supply of the said goods, admittedly no payment has been made by the appellants. The contention of the appellants is that on account of deficiency in quality and quantity, the appellants suffered losses in the sum exceeding Rs.2,84,00,000/-.

3. Hence the following order.

- (a) Subject to the appellants depositing a sum of Rs.4,00,00,000/- in the following manner, the operation of the impugned order dated 5th October, 2005 shall remain stayed.
 - (i) A sum of Rs.1,00,00,000/- on or before 15th March, 2006;
 - (ii) A sum of Rs.1,00,00,000/- on or before 15th April, 2006;
 - (iii) A sum of Rs.1,00,00,000/- on or before 15th May, 2006; and
 - (iv) A sum of Rs.1,00,00,000/- on or before 15th June, 2006.
- (b) It is clarified that any default in deposit of the aforesaid amount shall result in automatic vacation of the stay order and the respondents-plaintiffs shall be entitled to proceed further as per the order 5th October, 2005.
- (c) In case the aforesaid amount is deposited, the Prothonotary and Senior Master shall invest the said amount in fixed deposit with a

Nationalised Bank initially for a period of two years and renewable thereafter for the same period until the disposal of the appeal.

4. Notice of Motion stands disposed of.

(R.M. LODHA, J.)

(ANOOP V. MOHTA, J.)